IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 11781 of 2004

Between:

M/s.S.D.Enterprises, I.B.P.Dealers, Thotamula,H/o.Pedakummera Village, Gampalagudem(M),Krishna Dist., rep. By its authorized Dealer Sri B. Chanti.

..... PETITIONER

AND

1 The Joint Collector, Krishna Dist., Machilipatnam.
2 The Mandal Revenue Officer,Gampalagudem (M) at Gampalagudem, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction preferably writ of mandamus declaring the action of the 2nd respondent in seizing the stocks and also closing the entire petrol bunk of the petitioner on 28-06-2004 as illegal, arbitrary without authority and violative of principles of natural justice and consequently declare that the panchanama dt.28-06-2004 as illegal.

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondents: GP FOR REVENUE AND GP FOR CIVIL SUPPLIES

The Court made the following :

ORAL ORDER:

The petitioner is the authorised dealer of the Petrol bunk namely M/s. S.D. Enterprises, I.B.P. Dealers, Thotamula, Hamlet of Pedakummera village, Gampalagudem Mandal, Krishna District. The petitioner states that he has been running the said Petrol Bunk since 1987 as a dealer in petroleum products namely Diesel (HSD), Petrol (MS) and other lubricants with the IBP Company. On 28.06.2004, at about 7.25 PM, the Mandal Revenue Officer, Gampalagudem Mandal inspected the petrol bunk of the petitioner and seized 8,435 liters of diesel and 1,919 liters of petrol on the ground of alleged adulteration under the cover of panchanama. However the Mandal Revenue Officer has not removed the seized stocks from the petitioner petrol bunk. Since the seized stocks were left in the custody of the petitioner and lying in the tanks of the petitioner bunk itself and since the other machinery and the books were also seized, the petitioner is deprived to carry on further business. The Petitioner contends that the second respondent-Mandal Revenue Officer, Gampalagudem Mandal, is not competent to seize the entire petrol bunk as well as the machinery

depriving him from carrying on the business, since the licence held by him has neither been suspended nor cancelled. It is also stated that the Mandal Revenue Officer, Gampalagudem Mandal is not the licensing authority and as such the impugned action of the second respondent is arbitrary and illegal. In the circumstances, this writ petition is filed seeking a writ of mandamus declaring the action of the second respondent in seizing the stocks and also closing the entire petrol bunk of the petitioner on 28.06.2004 as arbitrary and illegal.

I have heard the learned counsel for the petitioner and the Government Pleader appearing for the respondents.

So far as the validity of the seizure and release of the seized stock is concerned, necessary enquiry will be conducted by the competent authority as per the procedure prescribed under the relevant control orders and appropriate orders will be passed. Hence, I am not inclined to express any opinion with regard to the said issues. However, the question is whether the petitioner can be prevented from carrying on the business.

The petitioner states that the licence held by him is still subsisting and it has neither been suspended nor cancelled. But since the seized stocks have not been removed from the petitioner petrol bunk, the petitioner is prevented from carrying on further business.

When the matter is taken up for consideration, the learned counsel for the petitioner has placed before this Court the letter of the Joint Collector, Krishna, Machilipatnam, dated 12.07.2004, under which the Mandal Revenue Officer, Gampalagudem has been requested to hand over the seized stock of petroleum products to the adjacent dealer who is having B form licence for the safe custody till the receipt of analysis results from the concerned Department.

Having regard to the directions already issued by the Joint Collector, Krishna, Machilipatnam for removing the seized stock of petroleum products from the petitioner petrol bunk, I am of the view that the interest of justice would be met if the writ petition is disposed of with a

direction to the respondents not to interfere with the business of the petitioner if the licence held by the petitioner to deal with petroleum products is subsisting and is neither suspended nor cancelled as on today.

Accordingly, the writ petition is disposed of with the above directions at the admission stage. No costs.

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19th July, 2004

*Nsr/Ars

Note:

Issue CC in two days.

(B/O) *Nsr/Ars

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Joint Collector, Krishna Dist., Machilipatnam.
2 The Mandal Revenue Officer,Gampalagudem (M) at Gampalagudem, Krishna District.

3. Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)

4. Two CCs to GP for Civil Supplies, High Court Buildings, Hyderabad (OUT)

5. Two CD copies.